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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/565,272

07/10/2006

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0002.1010

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21171 7590 09/07/2010

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EXAMINER

HELVEY, PETER N.

ART UNIT

PAPER NUMBER

3782

MAIL DATE

DELIVERY MODE

09/07/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/565,272	Applicant(s) MIYAKE ET AL.	
	Examiner PETER HELVEY	Art Unit 3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 May 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 5-11 and 14-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 12, 13, 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>1/20/2006 & 7/10/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species 2 in the reply filed on May 17, 2010 is acknowledged.
2. Claims 5-11 and 14-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on May 17, 2010.
3. Applicant indicated that claims 1-18 read on elected species 2, however the examiner respectfully disagrees. The claims withdrawn by the examiner about are clearly drawn to non-elected species for the following reasons:

Claim 5 recites the limitation regarding the discontinuous seal part, only found in Figures 9+ (non-elected Species).

Claim 7 recites the convex steam venting port, found in Figure 9A (non-elected Species).

Claim 11 recites the symmetrical non-seal parts between the seal part and the side seals, found in Figures 9+ (non-elected Species).

Claim 14 recites the lateral side seals, found in Figures 12-13 (non-elected Species).

Claim 15 recites the varying width of the side seal, found in Figures 16a (non-elected Species).

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Claim 17 recites the easy cutting means, found Figures 14 and 16 (non-elected Species).

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 1-4, 12, 13, and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-4, 12, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Mita et al.* (US PGPub 2003/0123758, hereinafter '*Mita*') in view of *Matsuda et al.* (US PGPub 2004/0045842, hereinafter '*Matsuda*').

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Mita discloses a packaging bag having a steam venting function, said packaging bag comprising: two sheets of front and back main body films having respective sealant layers (Figs. 21A, 21C), said two sheets being laid on layers by facing each said sealant layers inward to form a bottom seal part and side seal parts by sealing three sides of the laid two sheets, while a space of a top intended part for heat seal thereof being still opened (before final side is sealed); wherein, a fold-in part (44), with facing an inner sheet part and an outer sheet part each other by bending the main body film of the front side into Z shape, is formed in a front side of the main body film in the vicinity of the bottom seal part across an entire bag width parallel to said bottom seal part (Fig. 21C); and said fold-in part has a steam venting port (hole in middle of 46, typical); and a seal part (Fig. 21C).

Mita does not expressly disclose the seal part including an easily peelable tape including an easily peelable side having an easily peelable property on one side thereof and a high-strength adhesive side on an opposite side of the easily peelable side throughout a width direction of the bag parallel to the fold-in part within the fold-in part thereby to heat-seal the easily peelable side of the easily peelable tape positioned to the inner sheet side of the fold-in part, and an easily peelable seal part, made as capable of a delamination by thermally welding and binding the easily peelable side of the easily peelable tape and a sealant layer of the inner sheet part in the seal part, is positioned around said steam venting port.

However, *Matsuda* teaches providing an easy peel tape (10, 11, 12) with different adhesive strengths as claimed by applicant inside a secondary chamber of a pouch to control access between the chambers.

Mita teaches using the same sealing technique as for the edges of the bag used at the steam vent, relying on the location of the point seal to result in higher forces than at the edges. *Matsuda's* seal relies on differing adhesive strengths of the sides of the tape to ensure one side releases when desired, similar to applicant. The examiner has taken the position that this advantage of *Matsuda* would have been obvious to apply to *Mita* to anyone having ordinary skill in the art at the time of the invention because using an adhesive with a predictably low release strength around a steam venting port is old and notoriously well known in the art.

All of the component parts are known in *Matsuda* and *Mita*. The only difference is the combination of all the known elements into a single device by incorporating the easy peel tape taught by *Matsuda* into the fold section taught by *Mita*.

Thus, it would have been obvious to one having ordinary skill in the art to add the easy peel tape taught by *Matsuda* to the fold section taught by *Mita*, since the addition would allow the manufacturer to set the steam release pressure at whatever point was desired via the easy peel adhesive strength.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to place the *Matsuda* tape facing either direction

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(easy peel adhesive inside or outside), since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

Mita as modified by *Matsuda* further discloses an opposite side of said easily peelable side of the easily peelable tape is made as a high strength adhesive side, and said seal part is provided by heat-sealing in making said easily peelable side of the easily peelable tape positioning to the inner sheet part side of the fold-in part and in making the high strength adhesive side of the easily peelable tape positioning to the outer sheet part side of the fold-in part, and said high strength adhesive side of the easily peelable tape in said seal part and the sealant layer of the outer sheet part are thermally welded and combined together so that the delamination by the steam pressure is made to be incapable, said steam venting port is formed by cutting said seal part, said seal part has one non-seal part or more comprising a non-seal region with one side continuous to a mountain folding edge of the fold-in part while the other three sides are surrounded by a seal region and said steam venting port is positioned in said non-seal part (Fig. 21C, exchange point seal for alternative in Fig. 22C), and the high strength adhesive side of a lower edge part in said easily peelable tape is thermally welded and combined to a sealant layer of said outer sheet part throughout a longitudinal direction of the tape in an incapable state of the delamination by the steam pressure.

Regarding the limitation “so that the delamination by the steam pressure is made to be incapable”, the examiner has applied the following interpretation. The device taught by *Mita* as modified by *Matsuda* is considered to meet the scope of the claim because the release of the easy peel side of the adhesive tape would start the steam venting process such that pressure could not build to rupture a permanently sealed side.

Regarding claim 18, the examiner notes that the combination above results in a device clearly capable of the recited functions.

8. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Mita in view of Matsuda* as applied to claim 4 above, and further in view of JP 10-101154, hereinafter *Japanese Reference 1*.

Mita as modified by *Matsuda* discloses all limitations of the claim as detailed above except does not expressly disclose the punched holes as claimed.

However *Japanese Reference 1* teaches providing such holes (4) in the sealant layers in order to form a pressure release valve (Figs. 1, 2, 4).

At the time of the invention, it would have been obvious to a person having ordinary skill in the art to add the holes taught by *Japanese Reference 1* to the edges of the seal and tape parts taught by *Mita* as modified by *Matsuda*, in order to provide an additional steam release means.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PETER HELVEY whose telephone number is (571)270-1423. The examiner can normally be reached on M-Th 8:00 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P. H./
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August 28, 2010

/Nathan J. Newhouse/

Supervisory Patent Examiner, Art Unit 3782